



State of Utah

GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

TODD E. KISER
Acting Commissioner

Insurance Department

State of Utah Title and Escrow Commission Meeting Meeting Information

Date: July 8, 2013 **Time:** 9:00 AM

Place: East Bldg, Spruce Room

MEMBERS

COMMISSION MEMBERS

Chair, Larry Turner Blake, *Washington Cnty*

Matthew Blaine Sager, *Maricopa Cnty, AZ*

Co-Chair, Kirk Donald Smith, *Weber Cnty*

Sylvia Skinner Andersen, *Public Member*

Jeffery Donald Wiener, *Salt Lake Cnty*

DEPARTMENT STAFF

Perri Babalis, *AG Counsel*

Brett Barratt, *Deputy Comm.*

Mark Kleinfeld, *ALJ* Suzette

Green-Wright, *MC Dir.*

Tammy Greening, *Examiner*

Jilene Whitby, *PIO Recorder*

Tracy Klausmeier, *P&C Director*

AGENDA

General Session: (Open to the Public)

- **Welcome** / Larry Blake, Chair
- Install New Members and Complete Paperwork / Dept. Personnel
- Review of Title & Escrow Commission Duties / Perri
- **Adopt Minutes of Previous Meeting**
- **Reports**
 - Concur with Licensee Report / Tammy
 - Concur with Complaint & Enforcement Reports for July / Tammy
 - Request for Dual Licensee Expedited Request: None
 - Request for Attorney Exemption: None
- **Administrative Proceedings Action / ALJ**
 - Stipulation & Order:
 - Eastwood Title Insurance Agency
 - 1st Liberty Title LC
 - Jax Hale Pettey
 - Request for a Hearing: None
 - Order to Show Cause: None
 - Informal Adjudicative Proceeding & Order: None
 - Formal Adjudicative Proceeding: None
- **Old Business**
 - Discuss Proposed Rule Amendments to [R592-2-7\(2\)](#) / Perri
 - Discuss Issue of Providing Lenders with Disbursement Schedules, Canceled Checks and Access to all Records, Post Closing / Larry
 - Feedback from ULTA.
 - New Bulletin Re: [31A-19a-209\(3\)](#) and [R592-15-7](#) Requiring That Rates & Charges Cannot be for Less than the Cost of Doing Insurance or Escrow Business / Brett
- **New Business**
- Elect Chair & Co-Chair (31A-2-403(5)) / Perri
- **Other Business**

Executive Session (Closed to Public)

General Session: (Open to the Public)

- **Adjourn:**

M. GALE LEMMON #4363
Assistant Attorney General
JOHN E. SWALLOW #5802
Attorney General
Attorneys for Utah Insurance Department
160 East 300 South, Fifth Floor
P.O. Box 140874
Salt Lake City, UT 84114-0874
Telephone (801) 366-0375

BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF UTAH

COMPLAINANT:

UTAH STATE INSURANCE DEPARTMENT

RESPONDENT:

EASTWOOD TITLE INSURANCE AGENCY,
INC.

Atten: Jeffrey Cardon
P.O. Box 971597
Provo, UT 84097
License No. 260426

**DEFAULT AND
DEFAULT ORDER**

Docket No. 2013-028-PC


Enf. Case No. 3219

DEFAULT

On Tuesday, the 11th day of June, 2013, at 9:30 a.m., the date and time set for the hearing on an Order to Show Cause in this matter, the Complainant appeared by and through its attorney, M. Gale Lemmon, Assistant Attorney General, the Respondent failed to appear either in person or through counsel. Therefore, pursuant to Utah Code Annotated Section 63G-4-209, the Default of the Respondent is hereby entered.

DATED this 11th day of June, 2013.

TODD E. KISER
INSURANCE COMMISSIONER



MARK E. KLEINFELD, Esq.
Presiding Officer

DEFAULT ORDER

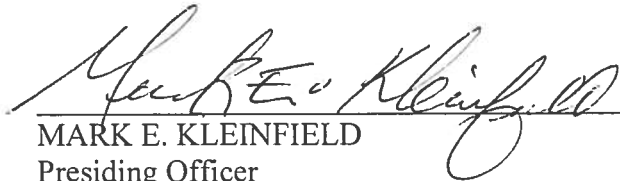
The Default of the Respondent having previously been entered, the presiding officer hereby adopts the allegations in the Motion for an Order to Show Cause as his Findings of Fact and Conclusions of Law, and enters the following Recommended Order:

IT IS RECOMMENDED THAT THE TITLE AND ESCROW COMMISSION IMPOSE THE FOLLOWING PENALTY:

1. The insurance license of the Respondent, Eastwood Title Insurance Agency, Inc., be revoked forthwith.
2. Respondent be ordered to immediately cease doing any insurance or escrow business in the State of Utah.

DATED this 10th day of June, 2013.

TODD E. KISER
INSURANCE COMMISSIONER



MARK E. KLEINFELD
Presiding Officer
Utah Department of Insurance
State Office Building, Room 3110
Salt Lake City, Utah 84114
Telephone (801) 538-3800

ADOPTION OF RECOMMENDED ORDER AND IMPOSITION OF PENALTY

By a vote of _____ to _____, taken in open meeting on this date, the Title and Escrow Commission hereby adopts the recommended order of the presiding officer and imposes the penalties recommended herein above.

DATED this _____ day of _____, 2013.

LARRY TURNER BLAKE, Chairman
Title and Escrow Commission

NOTIFICATION

Respondent is hereby notified that failure to abide by the terms of this Order may subject it to further penalties, including additional forfeitures of up to \$5,000.00 per violation and the filing of an action to enforce this Order in the District Court which may impose penalties of up to \$10,000.00 per day for continued violation.

You are further notified that other jurisdictions in which you may be licensed may require that you report this action to them.

M. GALE LEMMON #4363
Assistant Attorney General
JOHN E. SWALLOW #5802
Attorney General
Attorneys for Utah Insurance Department
160 East 300 South, Fifth Floor
PO Box 140874
Salt Lake City, UT 84114
Telephone: 801-366-0375
Facsimile: 801-366-0378


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**UTAH STATE
INSURANCE DEPT.**

**BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF UTAH**

COMPLAINANT:

UTAH INSURANCE DEPARTMENT

RESPONDENT:

1st LIBERTY TITLE LC
9488 Union Square, Suite 100
Sandy, UT 84070
License No. 371709

STIPULATION AND ORDER

Docket No.

Enf. Case No. 3323

STIPULATION

1. Respondent, 1st Liberty Title LC ("1st Liberty"), is a resident producer title insurance agency in the State of Utah, holding License 371709.
2. Respondent stipulates with the Complainant, Utah Insurance Department, as follows:
 - a. If a hearing were held, witnesses called by the Complainant could offer and introduce evidence that would support the Findings of Fact herein;
 - b. Respondent admits the Findings of Fact and Conclusions made therefrom;

- c. Respondent stipulates to the summary entry of the Order herein which shall be in lieu of other administrative proceedings by Complainant in this matter; and
- d. Respondent and Complainant have negotiated the terms of the Order entered herein and Respondent agrees to its entry and further agrees to be bound by all its terms.

3. Respondent is aware of its right to a hearing at which it may be represented by counsel, present evidence and cross-examine witnesses. Respondent has irrevocably waived its right to such hearing and to any appeal related thereto.

4. Respondent admits the jurisdiction of the State of Utah Insurance Commissioner and Title and Escrow Commission as to all matters herein.

5. Respondent is acting herein free from any duress or coercion of any kind or nature, having been advised fully as to its rights set forth herein.

6. Respondent acknowledges that the issuance of this Order by the Title and Escrow Commission is solely for purpose of disposition of the matter entitled herein.

7. If this agreement is not accepted or the penalty not imposed as agreed upon by the parties, then this Stipulation will be void and of no effect.

DATED this 13 day of June, 2013.



1st LIBERTY TITLE, LC
Jax Hale Pettey, Vice President



UTAH INSURANCE DEPARTMENT
M. Gale Lemmon, Assistant Attorney General

Based upon the foregoing Stipulation and information in the file, the Presiding Officer makes the following Findings of Fact:

FINDINGS OF FACT

1. On February 7, 2013, the Department created a list of all title producers who had reinstated their licenses during the month of January 2013. After reviewing the list and SIRCON licensing, it was determined that 1st Liberty's Vice President, Jax Hale Pettey's license had lapsed on August 31, 2012, and was not reinstated until January 10, 2013.
2. It was also determined that Jax Hale Pettey had never been associated to 1st Liberty.
3. On March 5, 2013, a letter from the Department was sent to Jax Hale Pettey requesting a narrative statement regarding any title insurance business conducted between August 31, 2012 and January 10, 2013.
4. On April 15, 2013, Jax Hale Pettey, Respondent's Vice President, sent a written reply stating that 86 closings were conducted between August 31, 2012 and January 10, 2013, the time period during which Pettey's license was lapsed.
5. Respondent was forthcoming during the investigation.
6. Respondent has agreed to an administrative forfeiture in the total amount of \$2,500.00.

Based upon the foregoing Stipulation and Findings of Fact, the Presiding Officer enters the following Conclusions of Law:

CONCLUSIONS OF LAW

1. Utah Code Ann. Section 31A-23a-103 requires that a title agency utilize the services of a licensed individual to conduct title business in this State. Respondent violated this statutory

mandate when it allowed Jax Hale Pettey to conduct 86 closings in its behalf while Pettey's license was lapsed.

2. Utah Code Ann. Section 31A-23a-302 (1) mandates that a licensed individual be designated to the title agency in order to conduct title business on its behalf. Respondent violated this provision by not having an active association with Jax Hale Pettey while he conducted 86 closings on its behalf.

3. An administrative forfeiture in the amount of \$2,500.00 is appropriate in this matter.

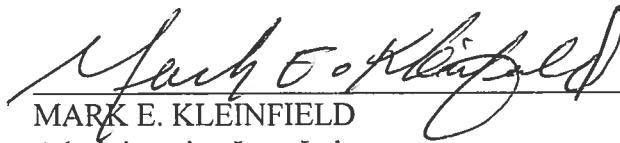
RECOMMENDED ORDER

IT IS RECOMMENDED THAT THE TITLE AND ESCROW COMMISSION IMPOSE THE FOLLOWING PENALTY:

1. Respondent, 1st Liberty Title LC, be assessed an administrative forfeiture in the amount of \$2,500.00 to be paid to the Department within thirty (30) days of the date of the imposition of the penalty by the Title and Escrow Commission.

DATED this 26th day of June, 2013.

TODD E. KISER
Insurance Commissioner


MARK E. KLEINFELD
Administrative Law Judge
Utah Insurance Department

ADOPTION OF RECOMMENDED ORDER AND IMPOSITION OF PENALTY

By a vote of _____ to _____, taken in open meeting on this date, the Title and Escrow Commission hereby adopts the recommended order of the presiding officer and imposes the penalty recommended herein above.

DATED this _____ day of _____, 2013.

LARRY TURNER BLAKE, Chairman
Title and Escrow Commission

NOTIFICATION

You are hereby notified that a failure to obey an Order of the Commissioner may subject you to further penalties, including forfeitures of up to \$5,000.00 per violation and the suspension or revocation of your license and the filing of an action in district court, which may impose forfeitures of up to \$10,000.00 per day for continued violation.

You are further notified that other jurisdictions in which you may be licensed may require that you report this action to them.



M. GALE LEMMON #4363
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Salt Lake City, UT 84114
Telephone: 801-366-0375
Facsimile: 801-366-0378

**BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF UTAH**

COMPLAINANT:

UTAH INSURANCE DEPARTMENT

RESPONDENT:

JAX HALE PETTEY
9488 Union Square, Suite 100
Sandy, UT 84070
License No. 89769

STIPULATION AND ORDER

Docket No.

Enf. Case No. 3322

STIPULATION

1. Respondent, Jax Hale Pettey ("Pettey"), is a licensed title producer in the State of Utah, holding License 89769.
2. Respondent stipulates with the Complainant, Utah Insurance Department, as follows:
 - a. If a hearing were held, witnesses called by the Complainant could offer and introduce evidence that would support the Findings of Fact herein;
 - b. Respondent admits the Findings of Fact and Conclusions made therefrom;

- c. Respondent stipulates to the summary entry of the Order herein which shall be in lieu of other administrative proceedings by Complainant in this matter; and
- d. Respondent and Complainant have negotiated the terms of the Order entered herein and Respondent agrees to its entry and further agrees to be bound by all its terms.
3. Respondent is aware of his right to a hearing at which he may be represented by counsel, present evidence and cross-examine witnesses. Respondent has irrevocably waived his right to such hearing and to any appeal related thereto.
4. Respondent admits the jurisdiction of the State of Utah Insurance Commissioner and Title and Escrow Commission as to all matters herein.
5. Respondent is acting herein free from any duress or coercion of any kind or nature, having been advised fully as to his rights set forth herein.
6. Respondent acknowledges that the issuance of this Order by the Title and Escrow Commission is solely for purpose of disposition of the matter entitled herein.
7. If this agreement is not accepted or the penalty not imposed as agreed upon by the parties, then this Stipulation will be void and of no effect.

DATED this 13 day of June, 2013.



JAX HALE-PETTEY



UTAH INSURANCE DEPARTMENT
M. Gale Lemmon, Assistant Attorney General

Based upon the foregoing Stipulation and information in the file, the Presiding Officer makes the following Findings of Fact:

FINDINGS OF FACT

1. On February 7, 2013, the Department created a list of all title producers who had renewed or reinstated their licenses during the month of January 2013. After reviewing the list and SIRCON licensing, it was determined that Jax Hale Pettey's license had lapsed on August 31, 2012, and was not reinstated until January 10, 2013.

2. It was also determined Respondent had never been associated to 1st Liberty Title LC although he conducted closings on its behalf.

3. On March 5, 2013, a letter from the Department was sent to Respondent requesting a narrative statement regarding any title insurance business he conducted between August 31, 2012 through January 10, 2013.

4. On April 15, 2013, Respondent sent a written reply stating that he conducted 86 closings between August 31, 2012 and January 10, 2013, the time period during which his license was lapsed.

5. Respondent was forthcoming during the investigation and took full responsibility for the lapse.

6. Respondent has agreed to an administrative forfeiture in the total amount of \$1,500.00.

Based upon the foregoing Stipulation and Findings of Fact, the Presiding Officer enters the following Conclusions of Law:

CONCLUSIONS OF LAW

1. Utah Code Ann. Section 31A-23a-103 requires that a person doing title insurance business be licensed by the State. Respondent violated this statutory mandate by conducting 86 closings for 1st Liberty Title LC while his license was lapsed.

2. Utah Code Ann. Section 31A-23a-302 (1) mandates that a licensed individual be designated to the title agency in order to conduct title business on its behalf. Respondent violated this provision inasmuch as he was not designated to 1st Liberty Title LC. Respondent has since been associated to 1st Liberty Title LC.

3. An administrative forfeiture in the amount of \$1,500.00 is appropriate in this matter.

RECOMMENDED ORDER

IT IS RECOMMENDED THAT THE TITLE AND ESCROW COMMISSION IMPOSE THE FOLLOWING PENALTY:

1. Respondent, Jax Hale Pettey, shall be assessed an administrative forfeiture in the amount of \$1,500.00 to be paid to the Department within thirty (30) days of the date of the Order.

DATED this 26 day of June, 2013.

TODD E. KISER
Insurance Commissioner


MARK E. KLEINFELD
Administrative Law Judge
Utah Insurance Department

ADOPTION OF RECOMMENDED ORDER AND IMPOSITION OF PENALTY

By a vote of _____ to _____, taken in open meeting on this date, the Title and Escrow Commission hereby adopts the recommended order of the presiding officer and imposes the penalty recommended herein above.

DATED this _____ day of _____, 2013.

LARRY TURNER BLAKE, Chairman
Title and Escrow Commission

NOTIFICATION

You are hereby notified that a failure to obey an Order of the Commissioner may subject you to further penalties, including forfeitures of up to \$2,500.00 per violation and the suspension or revocation of your license and the filing of an action in district court, which may impose forfeitures of up to \$10,000.00 per day for continued violation.

You are further notified that other jurisdictions in which you may be licensed may require that you report this action to them.

R592-2-1. Authority.

This rule is promulgated pursuant to Subsections 31A-2-404(2)(e), ~~(g), and~~ (h), and (6) to provide the process for conducting or delegating an administrative hearing in a title insurance matter ~~administrative hearing~~ and imposing a penalty for a violation of statute or rule.

R592-2-2. Purpose and Scope.

(1) The purposes of this rule are:

(a) to establish procedures for the commission:

(i) to delegate to the commissioner's administrative law judge the conduct of an administrative hearing to resolve a title insurance matter; or

(ii) to conduct an administrative hearing to resolve a title insurance matter; and

(b) to establish procedures for the commission,

(i) to impose penalties; and

(ii) for the commissioner to concur with the penalties imposed.

(2) This rule applies to all title licensees, applicants for a title insurance license, unlicensed persons doing the business of title insurance, and continuing education providers submitting title continuing education programs for approval.

R592-2-3. Definitions.

For purposes of this rule, the commission adopts the definitions set forth in Utah Code Annotated (U.C.A.) Title 31A and the following:

(1) "Commission" means the Title and Escrow Commission.

(2) "Commissioner" means the Utah's insurance commissioner.

(3) "Title insurance matter" means a matter related to:

(a) title insurance; and

(b) an escrow conducted by a title producer.

R592-2-4. Title Insurance Matters Referred for Enforcement.

- (1) A title insurance matter referred for enforcement will be resolved by:
- (i) an informal adjudicative ~~action proceeding~~ pursuant to R592-2-5;
 - (ii) a stipulation and order ~~issued~~ approved by the commissioner; or
 - (iii) ~~an formal administrative adjudicative hearing proceeding~~ conducted either by the commission or the commissioner's administrative law judge pursuant to R592-2-6.

R592-2-5. Imposition of a Penalty When an Informal Adjudicative Proceeding Is Used to Resolve a Title Insurance Matter.

- (1) If the commissioner uses an informal adjudicative proceeding as set forth in 63G-4-203 and R590-160 to resolve a violation listed in Table 1 below, the commissioner shall use the penalties imposed by the commission in this Section.
- (2) The commission shall impose the following penalties on title licensees for the violations listed in Table 1 below when resolved through an informal adjudicative proceeding.

Table 1

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| Violation | 1 st Proceeding | 2 nd Proceeding |
|--|---|---|
| Failure to complete required continuing education hours. | Individual: \$1,000; Agency: n/a | Individual: \$2,000; Agency: n/a |
| Failure to respond to an inquiry of the commissioner. | Individual: \$500; Agency: \$750 | Individual: \$1,000; Agency: \$1,500 |
| Failure to file a required rate, form, or report. | Individual: n/a Agency: \$1,000 | Individual: n/a; Agency: \$2,000 |
| Late filing of a required rate, form, or report. | Individual: n/a; Agency: \$750 | Individual: n/a; Agency: \$1,500 |
| Failure to charge or collect a correct premium or a correct filed fee. | Individual: \$1,000 <u>\$250</u> ; Agency: \$2,500 | Individual: \$2,500 <u>\$500</u> ; Agency: \$5,000 |

| | | |
|--|---|---|
| Charging or collecting a non-filed required fee. | Individual: \$1,000; Agency: \$2,500 | Individual: \$2,000; Agency: \$5,000 |
|--|---|---|

| | | |
|-------------------------------------|---|---|
| Failure to pay assessment when due. | Individual: \$1,000 500; Agency: \$1,500 750 | Individual: \$21,000 ; Agency: \$1,500 3,000 |
|-------------------------------------|---|---|

R592-2-6. Use of a Formal Adjudicative Proceeding n ~~Administrative Hearing~~ to Resolve a Title Insurance Matter.

(1) When the commissioner sets a date for a hearing in a formal adjudicative proceeding ~~n administrative hearing~~ to resolve a title insurance matter, the commissioner shall inform the commission of the hearing date.

(2) After being informed of ~~the~~a hearing date, the commission shall, in accordance with Section 31A-2-404(2)(e), either:

(a) delegate the conduct of the ~~administrative~~ hearing to the commissioner's administrative law judge; or

(b) conduct the ~~administrative~~ hearing.

(3) ~~In~~For an administrative hearing in a formal adjudicative proceeding conducted by the commission, the commission shall:

(a) accept the date, time and place set by the commissioner or set a different date, time, and place for the ~~administrative~~ hearing;

(b) cause notification to be sent to the respondent(s), the commissioner's administrative law judge, and the commissioner's enforcement attorney of the date, time, and place of the ~~administrative~~ hearing;

(c) conduct the hearing pursuant to U.C.A. § 63G-4-206 and R590-160;

(d) impose penalties in accordance with Sections 31A-2-308, 31A-2-404, 31A-23a-111, 31A-23a-112, 31A-26-213, and 31A-26-214, subject to the concurrence of the commissioner; and

(e) issue an ~~o~~Order on Hearing.

(4) The commissioner's administrative law judge shall assist the commission in its conduct of ~~an administrative a~~ hearing.

R592-2-7. Imposition of Penalties.

The commission shall impose a penalty as follows:

(1) for an informal adjudicative proceeding, a penalty shall be imposed in accordance with Table 1 in R592-2-5;

(2) for a stipulation and order approved by the commissioner, the commission shall:

(a) impose the recommended penalty; or

(b) return the stipulation and order to the commissioner for further resolution.

~~-(3) for an formal adjudicative proceeding-administrative hearing~~ conducted by the commissioner's administrative law judge ~~pursuant to R592-2-6 (2)(a)~~, the commission shall impose the recommended penalty or return the matter to the commissioner for further resolution ~~a different penalty, subject to the concurrence of the commissioner;~~ or

(4) for a formal adjudicative proceeding~~n-administrative hearing~~ conducted by the commission, the commission shall impose a penalty, subject to the concurrence of the commissioner.

R592-2-8. Severability.

If any provision or clause of this rule or its application to any person or situation is held invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

R592-2-9. Enforcement Date.

The commissioner will begin enforcing this rule upon the rule's effective date.